

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public services – T & A Department – Sri B.M. Chakrapani, Junior Accountant, Sub-Treasury, Kotuaratla, Visakhapatnam Dist. appointed on compassionate grounds – Exemption from passing Typewriting English Higher Grade in relaxation of Rule 12 of A.P. State & Subordinate service Rules – Orders – Issued.

FINANCE (Admn.III) DEPARTMENT

G.O. Ms. No. 78

Dt.25-3-2010

Read the following:

1. Orders of Hon'ble A.P.A.T. dt. 8-6-2007 in O.A.No. 3257 of 2003 filed by Sri D.M. Chakarapani, Junior Accountant, Sub-Treasury, Kotauratla Mandal & Village, Visakhapatnam Dist.
2. Orders of Hon'ble High Court dt. 23-4-2008 in W.P. No. 8966 of 2008 filed by the department.
3. Orders of Hon'ble Supreme Court of India dt.23-3-2009 in S.L.P. (Civil) CC No. 2013 of 2009.
4. Lr. No. L1/10206/2003, dt. 1-4-2009 from the D.T.A., A.P., Hyd.

B.M. Chakrapani, s/o. late Sri D. Simhachalam was appointed as Junior Accountant at Sub-Treasury, Kotauratla on compassionate grounds vide Deputy Director, Dist. treasury, Visakhapatnam Proc.No. 2898/98/2, dt. 11-9-1998 with permission of the District Collector, Visakhapatnam vide Rc. No. 2345/98/A3, dt. 3-9-1998 who is the nodal authority, with a condition to acquire the qualification of Typewriting Higher Grade in English within two years from the date of appointment, and he has reported to duty as Junior Accountant on the FN of 21-9-1998. As the individual could not acquire the same within the stipulated period he has been allowed grace period of two years as per G.O.Ms.No.969, dt. 27-10-1995. It is also stated that as per para 6 of G.O.Ms.No.969, dt. 27-10-1995, if the candidate concerned fails to acquire the requisite qualification of typewriting even within the extended grace period, then the individual may be considered for appointment to lower post such as an Attender as a fresh candidate after obtaining his willingness. If the individual is not willing to take the lower post it shall be treated that there are no compelling reasons of poverty and such candidate be discharged from service.

2. As the individual failed to acquire the said qualification within the extended grace period i.e., 4 years he was been issued a notice in terms of para -6 of G.O.Ms.No.969, vide Memo.No.1961/2002/A3, dt.28-8-2002. Aggrieved by the notice the individual has approached the Hon'ble A.P.A.T. in O.A.No.8403/2002 to continue him as Junior Accountant as per the appointment orders. Without insisting for Counter Affidavit at the admission stage with a direction to the applicant to make representation to the Respondents seeking similar exemption as was given to Smt. P. Padmavathi, respondents were directed to pass appropriate orders on the representation keeping in view of G.O.Ms.No.783, dt. 31-12-2001 and in the meanwhile the respondents were directed to continue the applicant as Junior Accountant.

3. It is stated that in his office Memo. No. 1960/02/A3, dt. 21-5-2003 the applicant was informed that his request for exemption cannot be considered as his case does not fall within the ambit of G.O.Ms.No.783, dt. 31-12-2001 and he was asked to submit willingness to work in a lower post as a fresh candidate in terms of G.O.Ms.No.969, dt. 27-10-1995 and in the mean time, he was continued. Aggrieved by this, the applicant filed present O.A.No.3257 of 2003.

4. The Hon'ble A.P.A.T. in the final judgement dt.8-6-2007 in O.A.No.3257 of 2003 directed the respondents

“7. Therefore, this Tribunal allows this application, by directing the respondents to take steps to grant exemption to the applicant on similar lines that was granted to the persons mentioned in G.O.Ms.No.783, Finance (Admn.III) Dept., dt. 31-12-2001 and pass necessary orders within a period of 10 (Ten) weeks from the date of receipt of this order and continue the applicant in the post of Junior Accountant”

5. The DTA also stated that the individual does not fall within the ambit of one time relaxation given for certain compassionate appointees in G.O.Ms.No.783, dt. 31-12-2001 since the one time relaxation was granted as per the agreement between the Government and APTSA and the exemption was given to those who were appointed upto during March, 1998 i.e., the month in which the Association has represented for exemption. Whereas the individual was appointed on September, 1998 and the question of any relaxation does not arise as informed by the Government vide Govt. Memo. No. 4518-A/29/Admn.III/99, dt. 23-8-2000. It is also stated that as informed by the Dy. Director, Dist. Treasury, Visakhapatnam, the individual had appeared for the Typewriting Higher Grade examination in English on **24-1-2004** and got through it. Accordingly, he acquired the qualification after a period of 5 years 4 months and 3 days from the date of appointment i.e., **with a delay of 1 year 4 months and 3 days** after completion of extended stipulated period.

6. Against the orders of APAT, Government have directed the DTA to prefer Appeal before A.P. High Court. Accordingly, the DTA has preferred the W.P. No. 8966 of 2008. The Hon'ble High Court dismissed the W.P. on 23-4-2008 by observing the following:

“It is not disputed that the similarly situated persons enjoyed the benefit of the above G.O. Therefore, the denial of the same benefit to the similarly situated person i.e., the applicant, amounts to discrimination as rightly observed by the tribunal. In this view of the matter and in the absence of any reasons as to the delay in filing the above writ petition nearly after period of 10 months, we feel that the writ petition is devoid of merits and the same is liable to be dismissed.”

7. Against the orders of Hon'ble High Court, as directed by the Government, the DTA filed SLP before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India passed the following orders dt. 23-3-2009 in SLP (Civil) CC No. 2013/2009.

“There is no ground to interfere. The special leave petition is dismissed.”

8. **In view of the orders of Hon'ble A.P.A.T . dt. 8-6-2007** passed in O.A. No. 3257 of 2003 filed by Sri B.M. Chakrapani, Junior Accountant, Sub-Treasury, Kotuaratla, Visakhapatnam, confirmed by the Hon'ble High Court in W.P.No.8966 of 2008 and further confirmed by the Hon'ble Supreme Court in SLP (Civil) C.C. No. 2013/2009, it is decided to exempt him from passing the Typewriting English Higher Grade examination on par with other similar Junior Accountants who were granted exemption vide G.O.Ms.No.783, Finance (Admn.III) Dept., dated 31-12-2001 by regularizing his services from the date of his initial appointment to the category of Junior Accountant i.e., 21-9-1998.

9. Government after careful examination of the matter hereby order to implement the orders of Hon'ble A.P.A.T. dt. 8-6-2007 passed in O.A. No. 3257 of 2003 filed by Sri B.M. Chakrapani, Junior Accountant, Sub-Treasury, Kotuaratla, Visakhapatnam, confirmed by the Hon'ble High Court in W.P.No.8966 of 2008 and further confirmed by the Hon'ble Supreme Court in SLP (Civil) C.C. No. 2013/2009, to exempt Sri B.M. Chakrapani, Junior accountant from passing the Typewriting English Higher Grade examination on par with other similar Junior Accountants who were granted exemption vide G.O.Ms.No.783, Finance (Admn.III) Dept., dated 31-12-2001 by regularizing his services from the date of his initial appointment to the category of Junior Accountant i.e., 21-9-1998.

10. The D.T.A., Hyderabad is requested to take further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

L.V. SUBRAHMANYAM
PRL. SECRETARY TO GOVERNMENT (FP)

To
The individual
(through the DTA, Hyd.)
Copy to: The D.T.A., Hyd.

// Forwarded :: By Order //

SECTION OFFICER